

**261—314.5(81GA,ch1142) Contract administration.**

**314.5(1) *Notice of award.*** The department shall notify approved applicants in writing of the board's award of grants, including any conditions and terms of the approval.

**314.5(2) *Contract required.*** The board shall direct the department to prepare a cost-share agreement which shall include terms and conditions of the grant established by the board. The agreement will:

- a. Describe the project in sufficient detail to demonstrate the eligibility of the project.
- b. State the total cost of the project expressed in a project budget included in sufficient detail to meet the requirements of the infrastructure board.
- c. State the project completion deadline.
- d. State the project completion requirements which are preconditions for payment of the grant by the board.

e. Recite the penalty for the storage or dispensing, within the stated time frame of five years from submission of verified documentation of project completion, of motor fuel other than the type of renewable fuel for which the grant was awarded.

**314.5(3) *Repayment penalty for nonexclusive renewable fuel use.*** In the absence of a waiver from the board, the department may impose a civil penalty due to a grantee's use of infrastructure equipment for which a grant was awarded, for the storage or dispensing, within the time frame stated in the agreement, of motor fuel other than the type of renewable fuel for which the grant was awarded.

**314.5(4) *Duration of grant agreement; repayment or board waiver.***

a. The duration of a cost-share grant agreement shall be five years from the date of submission of verified documentation of project completion.

b. Grantees shall not use the infrastructure to store and dispense motor fuel other than the type approved by the board, unless one of the following applies: (1) the grantee is granted a waiver by the board, or (2) the grantee pays back the moneys awarded with an additional 25 percent penalty.

**314.5(5) *Waiver criteria.*** The board may waive repayment of grant funds plus the 25 percent penalty. A grant recipient seeking a waiver during the time period in which a cost-share agreement is in effect shall submit a written waiver request to the board. The board will consider waiver requests under the following circumstances:

a. Transition provision for awards made prior to December 21, 2006. A grant recipient that received an award prior to December 21, 2006, and signed a cost-share agreement contract that included the five-year exclusive use of renewable fuel requirement has up to 60 days after July 25, 2007, to request that the board rescind the contract and grant a permanent waiver of the 25 percent penalty. Any grant funds disbursed shall be paid back, the 25 percent penalty will be waived, and the contract will be terminated.

b. Permanent waiver.

(1) Waiver due to completion of contract obligations (no repayment and no 25 percent penalty). The board hereby grants a waiver of the obligation to repay grant funds plus any penalty to all grant recipients that satisfy the terms and conditions of their cost-share grant agreements including, but not limited to, the five-year exclusive use of renewable fuel requirement.

(2) Waiver due to demonstration of good cause (no repayment and no 25 percent penalty). A grant recipient may request a permanent waiver during the time period in which a cost-share grant agreement is in effect if the grant recipient can demonstrate good cause for failure to continue using the approved renewable fuel. "Good cause" includes, but is not limited to, events such as the following:

1. Permanent business closure due to bankruptcy.
2. Permanent closure of underground or aboveground storage tanks.

(3) Waiver due to demonstration of financial hardship (repayment on a sliding scale and no 25 percent penalty). A grant recipient may seek a permanent waiver of exclusive use of the approved renewable fuel during the time period in which a cost-share agreement is in effect due to financial hardship. The grant recipient must demonstrate that continuing to dispense the renewable fuel at a project site will cause a financial hardship. A request for waiver due to financial hardship shall include documentation to show a "good faith" effort to market the fuel, specifically the most recent six-month history of gallons of approved renewable fuel sold by month, marketing/advertising efforts, retail price

comparison of E-85 to E-10 (or regular gasoline) or of biodiesel to regular diesel. If a waiver is granted, the 25 percent penalty will not be assessed, but the grant funds will be repaid as follows:

1. Months 1 through 10 of contract, 100 percent of grant amount.
2. Months 11 through 60 of contract, 2 percent of grant amount for each month remaining on contract.

c. Temporary waiver (temporary suspension of repayment and 25 percent penalty). A grant recipient may request a temporary suspension of the obligation to use only the approved renewable fuel and a temporary waiver of the repayment plus penalty requirement. A request for a temporary waiver, or an extension of a temporary waiver, will only be considered by the board if the recipient can document to the board's satisfaction that market forces are not allowing for advantageous sales of the approved renewable fuel. A grant recipient shall submit documentation of the previous six-month sales history and marketing attempts to substantiate the grant recipient's request for a temporary waiver. The following conditions apply to requests for a temporary waiver:

- (1) A temporary waiver will not be granted during the first six months of a cost-share agreement.
- (2) A temporary waiver will not shorten the grant recipient's obligation to use the infrastructure to store and dispense the approved renewable fuel for a minimum of five years. If the board approves a temporary waiver, the contract duration will be extended by the length of the approved waiver period.
- (3) A grant recipient may request a temporary waiver of up to six months. The board may approve a request to extend a temporary waiver for an additional six months, provided the total cumulative time period allowed for temporary waivers shall not exceed two years.
- (4) If a state executive order suspending the Iowa Renewable Fuel Standard (RFS) schedule is issued, the board may decide to grant a temporary waiver to all grant recipients. The board will establish the duration of the waiver and provide written notice to all grant recipients of the board's action. When the board determines that a temporary waiver is necessary due to suspension of the Iowa RFS schedule, the five-year contract period will not be extended by the length of the temporary waiver.